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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

4 v.

18 CR 872 (VM)

5 LLOYD KIDD,

6 Defendant.

7 -----x

8 New York, N.Y.  
9 October 11, 2019  
3:23 p.m.

10 Before:

11 HON. VICTOR MARRERO,

12 District Judge

13  
14 APPEARANCES

15 GEOFFREY S. BERMAN,

16 United States Attorney for the  
Southern District of New York

17 JACOB GUTWILLIG

Assistant United States Attorney

18 FLORIAN MIEDEL

19 Attorney for Defendant

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(In open court)

(Case called)

THE COURT: Good afternoon. Thank you. Be seated.

This is a proceeding in the matter of the United States v. Kidd. It is docket number 18 CR 0872.

Counsel, please enter your appearances for the record.

MR. GUTWILLIG: Good afternoon, your Honor. Jacob Gutwillig for the government.

MR. MIEDEL: Good afternoon, your Honor. Florian Miedel for Mr. Kidd.

THE COURT: Good afternoon. The Court notes that the defendant is present in the courtroom seated next to his attorney.

The Court scheduled this proceeding following the jury trial of the underlying matter in order to consider a request by the defendant to submit a motion under rule 29 for a directed verdict challenging the jury's conviction of the defendant on one of the counts.

Mr. Miedel, are you ready to proceed?

MR. MIEDEL: Yes, I am, your Honor.

THE COURT: All right. Let me ask how long a presentation you anticipate?

MR. MIEDEL: Your Honor, maybe 15 minutes?

THE COURT: All right.

MR. MIEDEL: If I may, I'll go to the podium.

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1 THE COURT: Yes.

2 MR. MIEDEL: Your Honor, this is an oral argument in  
3 support of Mr. Kidd's rule 29 motion made at the end of the  
4 government's case and renewed again at the end of the entire  
5 trial. The Court has asked, I think, for argument on the rule  
6 29 motion be made orally at this conference, as opposed to  
7 being briefed before the conference. Therefore, I haven't  
8 briefed anything in advance; although, I think that this issue  
9 actually might benefit from briefing, but the Court can decide  
10 that later.

11 I'm raising one issue, your Honor, for rule 29  
12 purposes, which is that the evidence was legally insufficient,  
13 as a matter of law, to allow the jury to conclude, as to Counts  
14 One and Five, even by a preponderance of the evidence, that  
15 venue for those counts existed in the Southern District of  
16 New York.

17 I think we can all agree that the United States  
18 Constitution and rule 18 of the Federal Rules of Criminal  
19 Procedure require that in order to have venue, some part of the  
20 crime of conviction must occur in the district, or it must have  
21 occurred in this district, the Southern District. Some part of  
22 the crime of conviction, not that somebody in the case lived in  
23 the Southern District or took the subway from the Southern  
24 District or commuted from there but that part of the crime had  
25 to take place there.

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1           So I'd like to begin by discussing the conviction on  
2 Count Five, which is the production of child pornography count,  
3 the inducement of a minor to engage in explicit conduct. The  
4 indictment in this case makes clear that the images in question  
5 were taken in February of 2017. There was testimony at the  
6 trial about images that may have been taken earlier, as early  
7 as 2015, but this particular count only concerns the images  
8 that were produced in February of 2017.

9           It is undisputed, your Honor, that the photos that  
10 were the subject of Count Five were taken in Brooklyn. So the  
11 government's argument as to venue has to be that even though  
12 the photos were taken in Brooklyn, Kaira Brown was induced or  
13 enticed to participate in those photos while she was in  
14 Manhattan.

15           Now, that argument, which I expect the government to  
16 make, appears to be based on the Second Circuit's decision in  
17 *United States v. Thompson*, from 2018. That's 896 F.3d 155.  
18 There, the court held that venue in the Eastern District, in  
19 that case, was okay even though the picture at issue was taken  
20 in the Southern District because the defendant had spent a lot  
21 of time, quote, grooming the minor victim in the Eastern  
22 District to eventually make it possible for her to participate  
23 in taking the video that was the subject of the count in the  
24 Southern District.

25           The grooming in Thompson, just briefly, was as

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1 follows. In Thompson, the defendant directed the minor victim  
2 to engage in prostitution in Brooklyn for a period of years.  
3 He advertised for her services in Brooklyn. He had such  
4 control over her that he even directed her Brooklyn-based  
5 prostitution activities while he was in jail, and ultimately,  
6 an image was found on his phone in The Bronx of -- that was  
7 determined to be child pornography, and that video was made in  
8 The Bronx.

9 So clearly, in the Thompson case, all of the criminal  
10 conduct, related criminal conduct leading up to the creation of  
11 the video, took place in the district where the trial ended up  
12 taking place. That was enough for the Second Circuit to  
13 conclude that there was sufficient venue.

14 Now, Thompson, again, that's a case from 2018, relied  
15 on two other circuit cases that had taken up this issue as  
16 well, one was *United States v. Engle*, a Fourth Circuit case  
17 from 2012, and that's at 676 F.3d 405. In that case, venue was  
18 challenged as being proper in Virginia because the defendant in  
19 that case took a video of himself having sex with a minor in  
20 Pennsylvania.

21 However, he repeatedly contacted the victim from  
22 Virginia. He sent her naked pictures of himself from Virginia  
23 to get her to agree to have sex with him. He engaged in  
24 multiple sexually related conversations from Virginia to try to  
25 convince her to have sex with him, and ultimately, the court

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1 there decided that that was sufficient grooming from Virginia  
2 to allow venue to be proper in Virginia.

3 The second case that the Second Circuit relied on in  
4 Thompson was *United States v. Sullivan*, which is a Ninth  
5 Circuit case from 2015, at 797 F.3d 623, and there venue was  
6 challenged as being proper in the Northern District of  
7 California.

8 In that case, the defendant met the minor girl in the  
9 Northern District of California. He spent weeks with her in  
10 the Northern District. He had sex multiple times with her in  
11 the Northern District. He took pictures of her in the Northern  
12 District, but at some point, he traveled to the Eastern  
13 District of California and took a video, which was the subject  
14 of the count of conviction. And not surprisingly, I think the  
15 Ninth Circuit concluded that all of those criminal activities  
16 that took place in the Northern District of California were  
17 enough to generate venue in that district.

18 Now, the circumstances here are completely different  
19 than in these cases that I've cited to you. In this case,  
20 there was no -- literally no criminal activity in the Southern  
21 District of New York. There was no sex with a minor. There  
22 was no prostitution. There were no phone calls or texts of a  
23 sexual nature. There were no photos. No videos.

24 The only thing on the record in this case was Kaira  
25 Brown's testimony, in which she said that somewhere in 2015,

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1 Lloyd Kidd contacted her by text in response to an  
2 advertisement that had been put up on Backpage of her for  
3 prostitution purposes.

4 He contacted her and, in the text, asked if she would  
5 be willing to prostitute herself out of his house in exchange  
6 for 50 percent share of the profits. Incidentally, in that  
7 text, he told her that she needed to be 18 years old in order  
8 to do that. There was that, and then on top of that, she  
9 testified about some additional logistical calls that took  
10 place over the next 18 to 24 months, where she would call him  
11 from Manhattan and ask if she could come over or if the  
12 apartment was available, or something like that.

13 Now, the government's theory has to be that Mr. Kidd  
14 enticed Kaira Brown when she was in Manhattan in order to  
15 participate in the child pornography that took place in 2017 in  
16 Brooklyn. But again, those pictures were taken 18 to 24 months  
17 after the initial contact that she testified to in 2015. And  
18 during those 18 to 24 months, Kaira Brown testified that she  
19 had sex with Mr. Kidd, she engaged in prostitution, she took  
20 pictures, he took pictures of her. Her pictures were posted on  
21 Backpage, and all of those activities took place in Brooklyn.

22 Now, perhaps the argument can be made that all of  
23 these activities, the sex, the prostitution, the pictures, all  
24 were some kind of grooming that would eventually lead to the  
25 pictures that were the subject of Count Five. Sure, that

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1 argument could be made, except that grooming took place in  
2 Brooklyn. It didn't take place in Manhattan. And that's how  
3 this case is fundamentally different from the Thompson case and  
4 the other cases it relied on.

5 Again, in those cases, significant criminal conduct,  
6 related criminal conduct took place in the district where the  
7 trial took place and led to the taking of videos in another  
8 district. Here, the opposite is true. None of the alleged  
9 other criminal conduct took place in the Southern District, the  
10 prostitution, the other pictures, none of it.

11 There were not even a series of messages of a sexual  
12 nature or pictures sent to Kaira Brown in Manhattan, for  
13 example, like there were in the Engle case, in an effort to  
14 persuade her later, two years later, I guess, to take the 2017  
15 pictures.

16 Also, your Honor, merely commuting to your criminal  
17 job does not provide venue. There was testimony that during  
18 the 18 to 24 months that Kaira Brown participated in these acts  
19 in Brooklyn, that periodically she would return to Manhattan to  
20 her group home. But again, there was no testimony whatsoever  
21 that while she was there, any conduct took place.

22 As an example, if I run a boiler room in Brooklyn and  
23 perpetrate a fraud from that boiler room but I live in  
24 Manhattan and commute there every single day and don't engage  
25 in any fraudulent conduct while I'm in Manhattan, that doesn't



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1 confer venue on Manhattan in that case. There has to be --  
2 some piece of the crime has to happen there.

3 The government's theory, I think, on this seeks to  
4 stretch the venue doctrine to beyond recognition. The case  
5 should have been brought in the Eastern District of New York.  
6 It wasn't, and now the government has to live with that  
7 decision. But on the facts in this -- on the facts of this  
8 record, of this trial record, there was no venue for this count  
9 in the Southern District and, therefore, your Honor, Count Five  
10 should be dismissed.

11 Now, as to Count One, the argument is similar,  
12 although there are some differences in that case. Sex  
13 trafficking, the count that Mr. Kidd was convicted of in Count  
14 One, 18 U.S.C. Section 1591, the relevant section of it  
15 because, obviously, Mr. Kidd was acquitted of the coercion  
16 aspect of that count, requires the defendant to solicit,  
17 entice, recruit, among other things, to cause a person, who is  
18 under 18, to engage in commercial sex acts while knowing or  
19 recklessly disregarding the fact that the minor is 18.

20 Now, in that very first conversation that took place  
21 in 2015, according to the testimony of Kaira Brown, as I  
22 mentioned before, Mr. Kidd texted her in response to an ad that  
23 she had up on Backpage and essentially offered her a chance to  
24 work out of his home to continue the prostitution in exchange  
25 for 50 percent of the profits. Now, that testimony would

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1 perhaps be legally sufficient to establish that he was  
2 recruiting or soliciting her to engage in a commercial sex act.

3 And she actually was in Manhattan at the time, and if  
4 a federal crime in Count One were promoting prostitution or  
5 something along -- something like that, venue would be proper,  
6 but that is not the federal crime in Count One. The federal  
7 crime in Count One is sex trafficking, which requires that  
8 Mr. Kidd knew or had reason to know or had time to observe  
9 Kaira Brown sufficiently to know that she was under 18. That  
10 did not happen until weeks later or months later.

11 What we know from the record is that in the initial  
12 text message that he sent her, inviting her to prostitute out  
13 of his apartment, he told her -- he made clear to her that she  
14 had to be 18 years or older, and that's on the record in the  
15 transcript on page 175. There was, therefore, no basis for him  
16 to know or even suspect or consciously disregard that she was  
17 not 18 when she responded to that ad or responded to that text,  
18 nor did she ever testify that she told him that she was younger  
19 than 18 at that time.

20 So when he texted and he spoke to her while she was in  
21 Manhattan in that initial conversation, he was not committing a  
22 federal crime. No part of that, the crime that he was  
23 convicted of, took place in that conversation. It would only  
24 have been a crime if he had known she was under 18.

25 Now, again, venue requires at least some part of the

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1 crime to be committed in the district where the prosecution  
2 takes place, and he wasn't committing a crime when he induced  
3 her. And then, according to the record, over the course of the  
4 next 18 months or so, every single act that forms the basis of  
5 Count One took place in Brooklyn. There was no sex in  
6 Manhattan. There was no prostitution in Manhattan. There was  
7 no sending of ads to her, for example, to verify their accuracy  
8 in Manhattan. There were no pictures taken for ads in  
9 Manhattan. None of it happened in Manhattan.

10 The fact that Kaira Brown occasionally went back to  
11 her group home during this period does not bestow venue on the  
12 Southern District, not without some other conduct that was part  
13 of the crime. During this period of time, subsequent to him  
14 allegedly learning that she was under 18, Mr. Kidd did not  
15 recruit her, entice her, harbor her, transport her, provide for  
16 her, obtain, advertise, maintain, patronize or solicit her in  
17 Manhattan, and that's what the statute requires.

18 Your Honor, there really isn't -- we'll see when the  
19 government stands up, but I don't think there is a factual  
20 dispute here. The testimony is what it is. But based on that  
21 testimony, the legal conclusion has to be that the evidence was  
22 legally insufficient for the jury to conclude that venue was  
23 proper in the Southern District for both Count One and Count  
24 Five. Thank you.

25 THE COURT: Thank you.

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Mr. Gutwillig?

MR. GUTWILLIG: Yes, your Honor. As the Court instructed the jury at trial with respect to Counts One and Five, and the other counts, the government was required to prove that any act in furtherance of the unlawful activity occurred within the Southern District of New York. Under Second Circuit law, as your Honor instructed, the government must only do that by a preponderance of the evidence.

I'll discuss both Counts One and Count Five in response to the arguments made by defense counsel, but kind of just as a threshold matter, directing the Court's attention generally to pages 117 through 123 of the transcript, which involves Kaira Brown's testimony, she testified, in sum and substance, as defense counsel alluded to, that when the defendant recruited her by text message, she told him that she would be coming from a group home in Manhattan. That's clearly in the testimony.

She also testified that she traveled from Manhattan to Brooklyn to meet the defendant and that she engaged in prostitution for him shortly thereafter. She testified that she saw approximately five customers the first day.

With respect to the Count One, the statute is very broad. It says, section 1591: Recruits, entices, harbors, transports, provides, obtains, advertises, maintains, patronizes or solicits. Here, the defendant clearly recruited

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1 Kaira Brown from the Southern District of New York in the text  
2 message conversation. Kaira Brown testified that they  
3 discussed prostitution, they discussed the split of the  
4 proceeds.

5 It can't realistically be argued that the defendant  
6 had anything else in his mind at that time, given that she  
7 engaged in prostitution almost immediately upon arriving. I  
8 would note, your Honor, that this theory of venue has been  
9 accepted in case *United States v. Benjamin*, 18 CR 874. At the  
10 close of the evidence in that matter, defense counsel made a  
11 motion pursuant to rule 29 to dismiss based on lack of venue,  
12 and there, the theory of venue was that the defendant had  
13 recruited the victim from the Southern District of New York by  
14 Facebook communications. The defendant thereafter traveled  
15 from the Southern District of New York to Brooklyn -- or I'm  
16 sorry, to Queens, rather, to meet the defendant, and then  
17 shortly thereafter engaged in prostitution. Very similar here.

18 And with respect to defense counsel's argument that it  
19 is in some way important that the defendant indicated that the  
20 victim needed to be 18 or didn't have a reasonable opportunity  
21 to observe her until she arrived later that day, I think both  
22 of those arguments are unavailing.

23 And the statute makes clear that any of these acts  
24 with -- any of these acts of recruiting it's not necessary that  
25 they occur contemporaneously with receiving money or observing

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1 the victim. He recruited her by text message from the Southern  
2 District of New York. She engaged in prostitution shortly  
3 thereafter.

4 And with respect to the period, Kaira Brown testified  
5 it was in the spring of 2015. The videos and images that are  
6 the subject of Count Five were made, or at least the metadata  
7 on the creation offered at trial was in February of 2017.  
8 During the intervening time, it wasn't the case that Kaira  
9 Brown testified that she occasionally went back and forth. She  
10 testified that she, quote, very frequently went back and forth  
11 to the defendant's apartment. The shortest amount of time was  
12 two days. The longest amount of time was two weeks.

13 She testified also that the first time she went back  
14 to Manhattan, she told the defendant she was going back to a  
15 facility in Manhattan. She's back and forth from Manhattan to  
16 Brooklyn during the entirety of the time from when she was  
17 first prostituted by the defendant to when she -- when videos  
18 and images were made of her in February 2017 that were the  
19 subject of Count Five.

20 Addressing specifically Count Five, the defense  
21 counsel is correct that the government would cite to *United*  
22 *States v. Thompson* and also *United States v. Sullivan* and  
23 *United States v. Engle*. I believe the citations are already in  
24 the record, but *United States v. Thompson*, 896 F.3d 155. And  
25 the argument that there was more grooming in that case, or that

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1 there was no grooming in this case, I would submit is  
2 unavailing.

3 The victim testified that she was recruited by the  
4 defendant in 2015. The videos and images were not made until  
5 February of 2017. During that time, as she testified, she  
6 frequently went back and forth from Manhattan to Brooklyn to  
7 work for the defendant. During that time, she testified that  
8 he tried to force himself on her while she was sleeping, that  
9 he choked her on at least one occasion.

10 And any idea that those acts wouldn't be found to be  
11 grooming, and understanding that defense counsel's argument is  
12 that the grooming acts, quote, unquote, occurred in the Eastern  
13 District of New York, he knew that she was going back and forth  
14 and he continued this. And any communications in the  
15 recruiting back and forth from Manhattan to Brooklyn and the  
16 specific knowledge that she was coming from Manhattan is enough  
17 to sustain venue on both Counts One and Count Five.

18 And I would just also note that Thompson notes the  
19 Second Circuit precedence supports a, quote, sweeping  
20 conception of, quote, enticement to support venue, and it cites  
21 to *United States v. Dorvee*, 616 F.3d 174, and *United States v.*  
22 *Brand*, 467 F.3d 179.

23 So just to summarize, with respect to Count One, the  
24 sex trafficking count, there can really be no dispute that the  
25 defendant recruited the victim from the Southern District of

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1 New York, and she shortly thereafter engaged in prostitution on  
2 his behalf. And over the next approximately 18 months to two  
3 years continued to do so until he ultimately produced the child  
4 pornography that was the subject of Count Five.

5 And for all of those reasons, the government would  
6 argue that venue is proper in the Southern District of New York  
7 on both Counts One and Five.

8 THE COURT: Mr. Gutwillig, one question. Is it your  
9 understanding that when the defendant first contacted Kaira  
10 Brown, he did so in response to her ad in Backpage? Is that  
11 correct?

12 MR. GUTWILLIG: I believe it is. If your Honor would  
13 give me a minute just to look at the transcript.

14 THE COURT: All right.

15 MR. GUTWILLIG: So the testimony was that: "It was a  
16 text message in response to a Backpage ad that was posted of  
17 me." So my understanding is that it was in response to a  
18 Backpage ad.

19 THE COURT: So when the defendant contacted her,  
20 presumably he knew that she was available because she had  
21 advertised in Backpage to engage in prostitution?

22 MR. GUTWILLIG: Yes, your Honor. The government would  
23 agree with that.

24 THE COURT: And to the extent he was aware that she  
25 was available and that he contacted her to come to Brooklyn, it



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1 was presumably, again, for the purpose of furthering this  
2 relationship that developed between them?

3 MR. GUTWILLIG: And as showed by shortly thereafter,  
4 she engaged in prostitution on his behalf almost the same day  
5 she arrived and saw approximately five customers.

6 THE COURT: All right. Thank you.

7 Mr. Miedel, anything else?

8 MR. MIEDEL: Yes, briefly, your Honor.

9 Just first of all, in response to your question.  
10 There wasn't a relationship between them that he furthered by  
11 contacting her. He contacted her by one text. She responded.  
12 They had a phone call, and she came to Brooklyn. And there's  
13 no dispute about the purpose of that. She came to work in  
14 prostitution.

15 So again, for Count One, the argument is not that he  
16 didn't seek to get her to come to Brooklyn to engage in  
17 prostitution. The argument is that that wasn't a crime at that  
18 point. It's only a crime if she was -- he knew that she was  
19 under 18. And so he could engage in all kinds of questionable  
20 conduct, but it wasn't a crime and he wasn't there for -- no  
21 part of the crime was, therefore, occurring in Manhattan at  
22 that time until later. And so, you know, that's the argument  
23 for Count One.

24 For Count Five, the suggestion that one text two years  
25 before the photograph in question in Count Five is taken is

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1 enough to suggest that enticement took place to allow her, two  
2 years later, to take that picture is crazy.

3 I mean, the reason she ended up taking the picture is  
4 because over the course of 18 or 24 months, she engaged in  
5 multiple acts of prostitution. And there were pictures taken  
6 during that period of time, there was a relationship, and all  
7 those things, yes, that's true, but that all took place in  
8 Brooklyn. It had nothing to do with Manhattan.

9 And her testimony that she went back and forth, first  
10 of all, she testified, this is on page 182 of the transcript,  
11 that in February of 2017 -- she was asked: "Question: What  
12 about during February of 2017, where were you spending the  
13 nights? Answer: At the defendant's house."

14 It's sort of irrelevant, frankly, whether she was  
15 going back and forth because there's no testimony whatsoever by  
16 her or anybody else that anything, anything relating to the  
17 crime took place while she was in Manhattan. She was simply  
18 coming back and forth over a period of time, but the conduct  
19 that makes it the crime, especially the crime in Count Five,  
20 took place in Brooklyn.

21 THE COURT: The question, to some degree, Mr. Miedel,  
22 is why she was coming back and forth, and to some extent, she  
23 was coming back and forth because the defendant was reaching  
24 out to her essentially asking her to come back.

25 MR. MIEDEL: Well, I'm not sure that's the testimony.

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1 I think the testimony is that she wanted to work. She was a  
2 prostitute, right? She was a minor, yes, but she was a  
3 prostitute. She wanted to work, and she wanted to make money,  
4 and so she would call him. I think the testimony is, in fact,  
5 she would call him sometimes to see if the place was open to  
6 work out of, and then she would come.

7 So I'm not sure it's fair to characterize the  
8 testimony is that each time that she was in Manhattan, he would  
9 reach out to her and try to get her to come back.

10 THE COURT: Not each time, Mr. Miedel.

11 MR. MIEDEL: Or anytime really.

12 THE COURT: I think that there was some testimony, as  
13 well, that there were times in which they had disagreements or  
14 fights or whatever, and then --

15 MR. MIEDEL: That's true, and then --

16 THE COURT: -- she moved out, went back to Manhattan,  
17 and at that point, presumably, at least the evidence suggests,  
18 that either she voluntarily came back or that the defendant  
19 enticed her or recruited her to come back because they had a  
20 business relationship.

21 MR. MIEDEL: Yes, yes. I think that one could maybe  
22 probably infer that from the testimony, but that's not the  
23 testimony itself. There is no testimony about that. There was  
24 testimony about the fact that they had some disagreements and  
25 she left, and in fact, at some point, she just packed her bags

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1 and took off and never came back.

2 But in terms of how the relationship developed or took  
3 place during this period of time, and whether he then reached  
4 out to her while she was in Manhattan and tried to get her to  
5 come back to continue her prostitution with him, there is no  
6 testimony like that that I'm aware of.

7 THE COURT: Well, you put your finger on the question.  
8 If there isn't directly, the question is whether there are  
9 reasonable inferences that a reasonable jury could draw from  
10 those circumstances. One of them might be that they had  
11 disagreements, she came back and forth. Sometimes when they  
12 had disagreements, she may have come back because the defendant  
13 reached out to her.

14 Mr. Gutwillig, anything else?

15 MR. GUTWILLIG: Just briefly, your Honor, to respond  
16 to a couple of points. First is that there seems to be this  
17 argument that the entire crime must have been committed in the  
18 Southern District of New York, and the instruction is that any  
19 act in furtherance of the unlawful activity occurred within the  
20 Southern District of New York.

21 Secondly, this idea that the defendant had to know she  
22 was 18 when he recruited her, is legally incorrect. The  
23 statute is very broad on that point. As your Honor knows from  
24 the jury notes and the subsequent conversation about it, it's  
25 knowledge, should have known, reasonable opportunity to

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1 observe. That does not need to happen at the same time as the  
2 recruitment.

3 And, frankly, I think the argument that she was a  
4 prostitute, she was looking for work is ridiculous, and she was  
5 a minor. And the reason that this statute protects minors in  
6 the way it does is because a minor cannot consent, which is a  
7 point that we discussed at trial.

8 As your Honor suggested, the reasonable inference from  
9 working in prostitution and being choked and any other number  
10 of things is clearly that the victim went back and forth and  
11 felt the need to go back and forth as part of the sex  
12 trafficking, which led to the enticement to create the video  
13 images.

14 THE COURT: All right. Thank you. If there's nothing  
15 else, I will close the hearing on this matter.

16 MR. MIEDEL: I'm sorry, one more thing, just briefly.

17 Mr. Gutwillig just mentioned that, you know, there was  
18 testimony about Mr. Kidd choking her and, therefore, causing --  
19 you know, that goes to the coercion part of the charge, of  
20 which he was acquitted. So, obviously, we cannot even draw the  
21 inference that the jury reasonably concluded that based on  
22 those facts, he was somehow enticing her or, you know,  
23 harboring her or whatever, because they acquitted him of that.

24 THE COURT: As I understand that testimony,  
25 Mr. Miedel, its relevance is not a question of whether there

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1 was coercion, but whether there were circumstances that drove  
2 her to leave the defendant's place of business, and then coming  
3 back. In coming back, a reasonable jury, under these  
4 circumstances, could conclude that she came back because of  
5 communications between them, the relationships that they had,  
6 and the acts of enticement or recruitment that the defendant  
7 made in order to allow her to come back.

8 In any event, I'm closing the hearing. I've heard the  
9 arguments. Mr. Miedel, I am not persuaded that, under these  
10 circumstances, a reasonable jury could legally find the  
11 evidence insufficient to establish venue in the Southern  
12 District of New York as to both to Counts One and Five.

13 I think that there is sufficient evidence on the  
14 record from which a reasonable jury could make a legal finding  
15 that venue was established, that the defendant solicited,  
16 enticed or recruited Kaira Brown while he was in Brooklyn and  
17 she was in Manhattan, to travel to Brooklyn for the purposes of  
18 sex trafficking.

19 Is there anything else? Thank you.

20 MR. MIEDEL: Your Honor, one other thing. Sentencing  
21 in this matter is currently scheduled, I think, for  
22 November 1st. Especially with this hearing being pushed back a  
23 couple of times sort of has snuck up on me, and I would ask the  
24 Court's indulgence and ask for a continuance on the sentencing.

25 Part of it is also that I'm still in the process of

JABPKIDO

1 investigating some facts about Mr. Kidd's background that I  
2 could use at sentencing and will need some additional time.

3 THE COURT: How much time would you need, Mr. Miedel?

4 MR. MIEDEL: Could we schedule it for early December?

5 THE COURT: Yes. Let's look for a time in December.

6 THE LAW CLERK: 2:00 on December 6th?

7 MR. MIEDEL: One moment, your Honor. December 6th,  
8 you said?

9 THE LAW CLERK: Yes.

10 MR. MIEDEL: Yes, that's fine. Thank you.

11 THE COURT: Is that good for the government?

12 MR. GUTWILLIG: Yes, your Honor.

13 THE COURT: Thank you.

14 (Adjourned)  
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